

**To:** Pellegrini, Janet[pellegrini.janet@epa.gov]  
**From:** Hess, Catherine  
**Sent:** Wed 7/2/2014 12:35:52 PM  
**Subject:** RE: USFWS Endangered Species @ Wheeling Bottoms (IN) Coal Permit- Peabody's Francisco Mine

Janet: I just spoke with Todd Huff at DOR and he advises that the approval of the addendum to the SMCRA permit is still in process. I have forwarded your email string to him to check out the concerns you and FWS staff have raised.

Catherine

**From:** Pellegrini, Janet [mailto:pellegrini.janet@epa.gov]  
**Sent:** Tuesday, July 01, 2014 3:13 PM  
**To:** Hess, Catherine  
**Subject:** RE: USFWS Endangered Species @ Wheeling Bottoms (IN) Coal Permit- Peabody's Francisco Mine

Catherine,

Since I'm not finding you at your desk at the right time today.

I will start with a basic question, what is the basin number of Flat Lake, as proposed in the addendum to the SMCRA permit?

I could not tell from the NOIs you sent if the water body- Flat Lake- that contains the endangered Least Tern, is one of the basins on the NOI list.

Has the addendum, that includes the use of Flat Lake as a coal slurry/ fine disposal sedimentation pond, to the SMCRA permit been finalized or is it still in process?

Janet Pellegrini, Environmental Scientist

USEPA Region 5, Water Division, NPDES Branch

77 West Jackson Blvd. WN-16J

Chicago, IL 60604-3590

Phone: 312-886-4298

Fax: (312) 692-2436

**From:** Pellegrini, Janet [<mailto:pellegrini.janet@epa.gov>]

**Sent:** Monday, June 30, 2014 4:29 PM

**To:** Hess, Catherine

**Subject:** RE: USFWS Endangered Species @ Wheeling Bottoms (IN) Coal Permit- Peabody's Francisco Mine

Catherine,

I do have some questions, if you are close to the end of your workday, can I call you tomorrow?

Janet Pellegrini, Environmental Scientist

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**From:** Hess, Catherine [<mailto:CHESS@idem.IN.gov>]

**Sent:** Monday, June 30, 2014 2:55 PM

**To:** Pellegrini, Janet

**Cc:** Pierard, Kevin

**Subject:** RE: USFWS Endangered Species @ Wheeling Bottoms (IN) Coal Permit- Peabody's Francisco Mine

Janet:

In March 2014 we renewed the general permit coverage for the Peabody Midwest Mining, Francisco Mine. The active outfalls at the mine discharge into 3 waters of the state: Keg Creek, an unnamed tributary to Keg Creek, and Lost Creek. Our approval letter and the NOI are attached to this email.

We also just (last week) issued a modification of the general permit coverage for this mine. I am also attaching that approval letter and NOI. Let me know if you have any questions, or if we need to discuss anything.

Sincerely,

Catherine Hess

**From:** Pellegrini, Janet [<mailto:pellegrini.janet@epa.gov>]

**Sent:** Monday, June 30, 2014 3:28 PM

**To:** Hess, Catherine

**Cc:** Pierard, Kevin

**Subject:** FW: USFWS Endangered Species @ Wheeling Bottoms (IN) Coal Permit- Peabody's Francisco Mine

Catherine,

This regards Peabody's Francisco Mine, Francisco, IN, Wheeling Bottoms.

Can you let R5 know, asap, if IDEM has the application for coverage under the NPDES Rule 7 for this site identified herein?

What is the status of review and if the NPDES NOI for this site has been issued yet?

Also is the receiving water a state water or waters of the US?

USEPA received information from USFWS regarding the presence of a federally listed endangered species, the Interior Least Tern.

The federal endangered terns are nesting on Flat Lake where the coal slurry/fine disposal is supposed to start shortly.

From emails received below it appears the SMRCA permit coverage for this part of the mine site may have been issued recently or is about to be issued.

I checked IDEM's VFC and the search did not result in any info.

Thanks much,

Janet

Janet Pellegrini, Environmental Scientist

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Chicago, IL 60604-3590

Phone: 312-886-4298

**From:** McCoy, Bill [mailto:[bill\\_mccoy@fws.gov](mailto:bill_mccoy@fws.gov)]

**Sent:** Monday, June 09, 2014 11:41 AM

**To:** Lori Pruitt; Daniel Sparks

**Subject:** Fwd: eBird Report - Wheeling Bottoms, Jun 8, 2014

Hi Lori and Dan,

Interesting report from Lee Sterrenburg concerning ILTs at the Flat Lake created by Peabody Energy as part of their strip mine reclamation just east of C.R. Road 550E. This is part of the refuge acquisition area. Heath observed the ILTs earlier foraging in the Wheeling Bottoms but

this sighting would indicate potential nesting. The lake shore area is also frequented throughout the winter by a pair of whooping cranes and upwards of 10,000 snow geese and many species of ducks.

This lake is scheduled to be used as a coal slurry deposition lake from the existing underground mining operations. Peabody is planning to push up a levee around the east end of Flat Lake to keep out Patoka River floodwaters. We just attended and testified at a hearing regarding the Div. of Reclamation's plans to approve Peabody's new mining permit which included the news that all (5) reclamation lakes left as incised last cut pits will be utilized to dispose of coal slurry from their nearby Francisco underground mine. I just received a certified letter from the DOR saying they had considered all the testimony and the permit was being issued.

Bill

----- Forwarded message -----

From: **Lee Sterrenburg** <[sterren@indiana.edu](mailto:sterren@indiana.edu)>

Date: Mon, Jun 9, 2014 at 5:22 AM

Subject: Fwd: eBird Report - Wheeling Bottoms, Jun 8, 2014

To: Amy Kearns <[greenpertplus@hotmail.com](mailto:greenpertplus@hotmail.com)>, Chuck Mills <[ccmills8600@gmail.com](mailto:ccmills8600@gmail.com)>

Cc: Heath Hamilton <[Heath\\_Hamilton@fws.gov](mailto:Heath_Hamilton@fws.gov)>, Bill McCoy <[bill\\_mccoy@fws.gov](mailto:bill_mccoy@fws.gov)>

Leas Terns in the Wheeling Bottoms. I'll post this later on in-bird-l but am sending it now to a few people interested in LETE.

--Lee

Begin forwarded message:

**From:** [do-not-reply@ebird.org](mailto:do-not-reply@ebird.org)

**Date:** June 8, 2014 6:36:50 PM EDT

To: [sterren@indiana.edu](mailto:sterren@indiana.edu)

**Subject: eBird Report - Wheeling Bottoms, Jun 8, 2014**

Wheeling Bottoms, Gibson, US-IN

Jun 8, 2014 9:15 AM - 9:55 AM

Protocol: Traveling

2.6 mile(s)

Comments: With Kathy McClain. Driving north on CR 650 E from 50 N, then west one mile on CR 160 N to CR 550 E. Main stop was the big pond west of CR 650

12 species

Mallard 6

Blue-winged Teal 2 both males

Northern Bobwhite 2 a pair

Black-necked Stilt 7 3 pairs and a lone bird

Killdeer 10

Least Tern 3 small dainty terns often flying and foraging together. White bodies and wings with black outer primaries, black caps with white foreheads, yellow bills. One of the three carried a small fish for over one minute. We did not see if it made a delivery with the fish. All three Terns the same size. Usually over the big pond but one also visited the flooded field habitat east of CR 650 E

Black Tern 1 in alternate plumage

Mourning Dove 6

Chimney Swift 1

Horned Lark 6

Common Yellowthroat 3

Dickcissel 4

View this checklist online at <http://ebird.org/ebird/view/checklist?subID=S18732038>

This report was generated automatically by eBird v3 (<http://ebird.org>)

----- Fwd: Least Tern Report: June 27, 2014;  
Fri 6/27/2014 2:51 PM

Hi Lori and Dan,

See Chuck Mill's report about the nice size colony of ILTs on Peabody's Flat Lake within the refuge acquisition area. I'll send pictures.

I understand there is going to be a meeting next week concerning the situation with Peabody planning to use the lake as a coal slurry sediment basin.

I talked with a neighbor Bill Johnson today who fishes that lake and saw it before it filled with river water. He said it has a nice flat level shoreline but about 10 feet out in some places there is a straight highwall dropoff all the way down to where the coal seam had been removed. That's probably over 100 feet deep since the coal got too deep to continue mining using surface techniques.

Bill J. said it was full of every kind of fish that occurred in the Patoka River since it floods every year to the point you can't tell there is a lake basin present as everything is under water. That means there are paddlefish in the lake just like at Columbia.

Prior to mining there was a court ditch draining the area running to the east into the Patoka River. This ditch was dug up as part of the lake and now serves as the conduit for lake waters in the northeast corner going to the Patoka River. Bill J. said earlier this spring he was there fishing. The ditch water was black with carp minnows and every kind of fish was there eating the minnows. That abundant minnow population is probably what helped attract the terns along with the wide, flat, barren shoreline.

Peabody has secured an easement to construct a sediment basin at this Northeast corner of the lake so that the slurry water will have a resident time of 10-hours before running off into the Patoka River. According to Bill J. the area is already surveyed with flagging for construction to start.

If the lake receives coal slurry, all the fish are doomed in the lake basin. Peabody will need to build a large earthen dike to keep the river flood waters from inundating the lake basin. Any contaminants or suspended solids in the coal slurry will kill the fish in the lake basin and contaminate any fish surviving in the sediment basin.

If there was ever a time to make a case to protect habitat for endangered species, this is a good example as it affects both the interior least terns, trumpeter swans, whooping cranes and paddlefish using the immediate area.

Bill

----- Forwarded message -----

From: **Chuck Mills** <[ccmills@wowway.com](mailto:ccmills@wowway.com)>

Date: Fri, Jun 27, 2014 at 1:07 PM

Subject: Least Tern Report: June 27, 2014

To: John Castrale <[jcastrale@dnr.in.gov](mailto:jcastrale@dnr.in.gov)>, Amy Kearns <[greenpertplus@hotmail.com](mailto:greenpertplus@hotmail.com)>, "Kenneth J. Brock" <[kj.brock@comcast.net](mailto:kj.brock@comcast.net)>, [sjohnson@dnr.in.gov](mailto:sjohnson@dnr.in.gov), [sterren@indiana.edu](mailto:sterren@indiana.edu), [rbriggeman@dnr.in.gov](mailto:rbriggeman@dnr.in.gov), John Pike <[john.pike@duke-energy.com](mailto:john.pike@duke-energy.com)>, "Cooksey, Pam" <[Pam.Cooksey@duke-energy.com](mailto:Pam.Cooksey@duke-energy.com)>, "Pruitt, Lori" <[lori\\_pruitt@fws.gov](mailto:lori_pruitt@fws.gov)>, [rebecca.sparks@duke-energy.com](mailto:rebecca.sparks@duke-energy.com), Bill McCoy <[bill\\_mccoy@fws.gov](mailto:bill_mccoy@fws.gov)>, [heath\\_hamilton@fws.gov](mailto:heath_hamilton@fws.gov), Adele Mouakad <[amouakad@gmail.com](mailto:amouakad@gmail.com)>, [andrew.gabanic@duke-energy.com](mailto:andrew.gabanic@duke-energy.com), David Ayer <[dayerd@yahoo.com](mailto:dayerd@yahoo.com)>, [4giffords@insightbb.com](mailto:4giffords@insightbb.com)

**Wheeling Bottoms:** I met with Ramona Briggeman, Reclamation Biologist for the DNR. Steve Gifford was already on the site. The three of us walked back to the area where Least Tern activity was seen. We found one nest with 3 eggs and one nest with a single egg along with two recently hatched young chicks. The maximum count of birds was 23 adults. There are probably as many as 30 adults associated with the site. The nesting location seems to be mainly on the southeast corner of the pond.

**Ash Pond:** On the mainland there were 6 nests and 3 sets of chicks. There were a total of 8 chicks counted. The island had one nest and one set of 3 chicks. There were 25 to 30 adults.

**SD:** Site A had 2 nests, 4 chicks seen, and 10 adults. There was activity seen at the other 4 locations. Interestingly there were no White Pelicans.

**TBS:** There was no water and no Least Terns. There are a lot of small willow trees growing in the moat. There are weeds growing on the fence. The islands themselves have about 15% low



vegetation cover.

**CR:** There were 2 nests on RI and 14 on TI. There were at least 6 groups of chicks all on TI. TI is starting to get a vegetation cover. This should help the chicks. There were about 60 adults present.

Andrew and I plan to hike the dike on Sunday. John Pike and I plan to check the river Monday using the airboat.

Chuck Mills

\_\_\_\_\_ Fwd: Wheeling Bottoms Least Terns; Fri 6/27/2014 3:08 PM \_\_\_\_\_

Hi,

Here are some pictures of the new interior least tern colony on the west end of the Refuge acquisition area. There were 23 adult terns counted in a short time this morning, 06/27/14, before the observers left the site to reduce disturbance. The terns are nesting on the southeast corner of what we refer to as Flat Lake which was created by Peabody Energy to serve as an incised basin (highwall lake) to eventually serve as a coal slurry sediment basin for the nearby Francisco underground mining operation.

This is the first confirmed nesting and hatching of interior least terns on the Patoka River NWR !

Bill

----- Forwarded message -----

From: <[4giffords@insightbb.com](mailto:4giffords@insightbb.com)>

Date: Fri, Jun 27, 2014 at 11:31 AM

Subject: Wheeling Bottoms Least Terns

To: Bill McCoy <[bill\\_mccoy@fws.gov](mailto:bill_mccoy@fws.gov)>

Cc: Heath Hamilton <[heath\\_hamilton@fws.gov](mailto:heath_hamilton@fws.gov)>, Charles Mills <[ccmills@wowway.com](mailto:ccmills@wowway.com)>, Amy Kearns <[akearns@dnr.in.gov](mailto:akearns@dnr.in.gov)>

Bill,

Following are some pics from this morning. Hope this helps!

<https://www.flickr.com/photos/steve-gifford/14333994198/in/photostream/>  
<https://www.flickr.com/photos/steve-gifford/14333972089/in/photostream/>  
<https://www.flickr.com/photos/steve-gifford/14520560645/in/photostream/>  
<https://www.flickr.com/photos/steve-gifford/14334111017/in/photostream/>  
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<https://www.flickr.com/photos/steve-gifford/14333906690/in/photostream/>

Have a great weekend,  
Steve

--

William McCoy, Refuge Manager

Patoka River NWR&MA

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